

## RECIPROCAL TRADE

*Agreement and exchange of notes signed at Havana December 23, 1941,  
supplementing and amending agreements of August 24, 1934, and  
December 18, 1939*

*Proclaimed by the President of the United States December 29, 1941*

*Published by Cuba in Gaceta Oficial December 29, 1941*

*Entered into force January 5, 1942*

*Made inoperative by agreement of October 30, 1947<sup>1</sup>*

*Terminated August 21, 1963<sup>2</sup>*

55 Stat. 1149; Executive Agreement Series 229

### AGREEMENT

The President of the United States of America and the President of the Republic of Cuba, being desirous of strengthening still further the traditional bonds of friendship and commerce between their respective countries by maintaining the basis of reciprocal preferential treatment in their commercial relations, and of making certain changes in the provisions of the trade agreement between the United States of America and the Republic of Cuba signed at Washington on August 24, 1934,<sup>3</sup> as amended by the supplementary agreement signed at Washington on December 18, 1939,<sup>4</sup> have resolved to conclude a further supplementary agreement for that purpose and have, through their respective Plenipotentiaries, agreed on the following Articles:

### ARTICLE I

1. The following additional items and notes are inserted in Schedule I<sup>5</sup> of the Agreement of August 24, 1934, as amended, in the proper numerical order:

[For text, see 55 Stat. 1452 or p. 4 of EAS 229.]

2. The items indicated below, of Schedule I of the Agreement of August 24, 1934, as amended, are amended to read as follows:

[For text, see 55 Stat. 1458 or p. 12 of EAS 229.]

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<sup>1</sup> TIAS 1703, *post*, p. 1229.

<sup>2</sup> Pursuant to notice of termination given by the United States Aug. 21, 1962.

<sup>3</sup> EAS 67, *ante*, p. 1163.

<sup>4</sup> EAS 165, *ante*, p. 1187.

<sup>5</sup> For schedules annexed to agreement of Aug. 24, 1934, see 49 Stat. 3570 or p. 14 of EAS 67.

## ARTICLE II

1. The following additional items are inserted in Schedule II of the Agreement of August 24, 1934, as amended, in the proper numerical order:

[For text, see 55 Stat. 1460 or p. 14 of EAS 229.]

2. The note following item 501 of Schedule II of the Agreement of August 24, 1934, as amended, is hereby terminated, and item 501 of the said Schedule is amended to read as follows:

[For text, see 55 Stat. 1464 or p. 16 of EAS 229.]

3. Items 601, 603, the note following item 603, and items 605, 752 and 765 of Schedule II of the Agreement of August 24, 1934, as amended, are amended to read as follows:

[For text, see 55 Stat. 1464 or p. 18 of EAS 229.]

4. The words "when imported and" wherever they appear in items 743, 771, 772 and 774 of Schedule II of the Agreement of August 24, 1934, as amended, are hereby deleted.

## ARTICLE III

Article V of the Agreement of August 24, 1934, as amended, is amended to read as follows:

1. No prohibition, restriction or any form of quantitative regulation, whether or not operated in connection with any agency of centralized control, shall be imposed by the Republic of Cuba on the importation or sale of any article the growth, produce or manufacture of the United States of America enumerated and described in Schedule I, or by the United States of America on the importation or sale of any article the growth, produce or manufacture of the Republic of Cuba enumerated and described in Schedule II, except as otherwise specifically provided for in the said Schedules.

2. The foregoing provision shall not apply to quantitative regulations in whatever form imposed by the United States of America or the Republic of Cuba on the importation or sale of any article the growth, produce or manufacture of the other country, in conjunction with governmental measures or measures under governmental authority operating to regulate or control the production, market supply or prices of like domestic articles, or tending to increase the labor costs of production of such articles, or to maintain the exchange value of the currency of the country. Whenever the Government of either country proposes to establish any quantitative regulation authorized by this paragraph, with respect to any article which is not now subject to such regulations, it shall give notice thereof in writing to the other Government and shall afford such other Government an opportunity to consult with it in respect of the proposed action; and if agreement with respect thereto is

not reached within thirty days following receipt of the aforesaid notice, the Government which proposes to take such action shall, nevertheless, be free to do so at any time thereafter, and the other Government shall be free within fifteen days after such action is taken to terminate this Agreement in whole or in part on thirty days' written notice.

#### ARTICLE IV

1. The second paragraph of Article VIII of the Agreement of August 24, 1934, as amended, is amended to read as follows:

Articles the growth, produce or manufacture of the United States of America enumerated and described in Schedule I annexed to this Agreement, with respect to which a rate of duty is specified in the said Schedule, shall, on their importation into the Republic of Cuba, be exempt from all other duties, taxes, fees, charges or exactions, imposed on or in connection with importation, in excess of those imposed on September 3, 1934, or required to be imposed thereafter by laws of the Republic of Cuba in force on September 3, 1934.

2. The fourth paragraph of Article VIII of the Agreement of August 24, 1934, as amended, is hereby deleted.

3. The last paragraph of Article VIII of the Agreement of August 24, 1934, as amended, is amended to read as follows:

The provisions of this Agreement shall not prevent the Government of either country from imposing at any time on the importation of any article a charge equivalent to an internal tax imposed in respect of a like domestic article or in respect of a commodity from which the imported article has been manufactured or produced in whole or in part.

#### ARTICLE V

Article X of the Agreement of August 24, 1934 is hereby terminated and the following Article is agreed upon:

#### ARTICLE X

Nothing in this Agreement shall prevent the adoption or enforcement of measures

- (a) imposed on moral or humanitarian grounds;
- (b) designed to protect human, animal or plant life or health;
- (c) relating to prison-made goods;
- (d) relating to the enforcement of police or revenue laws;
- (e) relating to the importation or exportation of gold or silver;
- (f) relating to neutrality;

(g) relating to public security, including measures imposed for the protection of the country's essential interests in time of war or other national emergency.

#### ARTICLE VI

Article XI of the Agreement of August 24, 1934, as amended, is amended to read as follows:

1. If the Government of either country establishes or maintains any form of control of the means of international payment, it shall accord unconditional most-favored-nation treatment to the commerce of the other country with respect to all aspects of such control.

2. The Government establishing or maintaining such control shall impose no prohibition, restriction or delay on the transfer of payment for any article the growth, produce or manufacture of the other country which is not imposed on the transfer of payment for the like article the growth, produce or manufacture of any third country. With respect to rates of exchange and with respect to taxes or charges on exchange transactions, articles the growth, produce or manufacture of the other country shall be accorded unconditionally treatment no less favorable than that accorded to the like articles the growth, produce or manufacture of any third country. The foregoing provisions shall also extend to the application of such control to payments necessary for or incidental to the importation of articles the growth, produce or manufacture of the other country. In general, the control shall be administered so as not to influence to the disadvantage of the other country the competitive relationships between articles the growth, produce or manufacture of the territories of that country and like articles the growth, produce or manufacture of third countries.

#### ARTICLE VII

1. The last clause of the second paragraph of Article XVII of the Agreement of August 24, 1934, as amended, is amended to read as follows: subject to the provisions of Article V and the third paragraph of this Article.

2. The third and fourth paragraphs of Article XVII of the Agreement of August 24, 1934, as amended, are hereby terminated and the following paragraph is added after the second paragraph of the said Article:

It is further agreed that, in the event that the Government of either country adopts any measure which, even though it does not conflict with the terms of this Agreement, is considered by the Government of the other country to have the effect of nullifying or impairing, in an economic sense, any object of the Agreement, the Government which has adopted any such measure shall consider such written representations and proposals as the other Government may make with a view to effecting a mutually satisfactory adjust-

ment of the matter; if no agreement is reached with respect to such representations or proposals within thirty days after they are received, the Government which made them shall be free, within fifteen days after the expiration of the aforesaid period of thirty days, to terminate this Agreement in whole or in part on thirty days' written notice.

#### ARTICLE VIII

The present supplementary Agreement shall constitute an integral part of the Agreement of August 24, 1934, as amended.

#### ARTICLE IX

The present supplementary Agreement shall be proclaimed by the President of the United States of America and shall be made effective in the Republic of Cuba in conformity with the laws of that country. It shall enter into force on the seventh day following the day of the proclamation thereof by the President of the United States of America and publication thereof in the *Gaceta Oficial* of the Republic of Cuba, or, if such proclamation and publication are not simultaneous, on the seventh day following the date of the later in time of such proclamation or publication.

In witness whereof the respective Plenipotentiaries have signed this Agreement and have affixed their seals hereto.

Done in duplicate, in the English and Spanish languages, both authentic, at the city of Habana, this twenty-third day of December, 1941.

For the President of the United States of America:

GEORGE S. MESSERSMITH [SEAL]  
*Ambassador Extraordinary and  
 Plenipotentiary of the United  
 States of America*

For the President of the Republic of Cuba:

J. M. CORTINA [SEAL]  
*Minister of State  
 of the Republic of Cuba*

#### EXCHANGE OF NOTES

*The Minister of State to the American Ambassador*

[TRANSLATION]

MINISTRY OF STATE  
*Habana, December 23, 1941*

EXCELLENCY:

I have the honor to refer to the provisions of the supplementary trade agreement between our two countries signed at Habana this day, which

establishes a reduced rate of duty on sugar of Cuban origin imported into the United States.

In view of the vital importance of sugar exports to the economy of Cuba, and of the predominant position of the United States as a market for Cuban sugar, my Government desires that consideration be given to the gravity of the possibility of the adoption of measures at any time in the United States which might adversely affect the position of Cuba as a supplier of sugar for the United States market, as compared with those established by the provisions of the Sugar Act of 1937,<sup>6</sup> inasmuch as my Government considers that such measures would nullify the objectives of this agreement and of the existing commercial relations.

I should appreciate receiving from Your Excellency such assurances in this regard as may be appropriate.

I take this opportunity to renew to Your Excellency the assurances of my highest consideration.

JOSE MANUEL CORTINA  
*Minister of State*

His Excellency  
GEORGE S. MESSERSMITH,  
*Ambassador Extraordinary and  
Plenipotentiary of the United States  
of America,  
Habana, Cuba.*

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*The American Ambassador to the Minister of State*

EMBASSY OF THE  
UNITED STATES OF AMERICA  
*Habana, December 23, 1941*

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's note referring to the tariff concession granting a reduced rate of duty on sugar of Cuban origin provided for by the supplementary trade agreement between our two countries signed at Habana this day, expressing preoccupation regarding the position of Cuban sugar in the United States market, and requesting assurances in this regard.

I have the honor to state that I am directed by my Government to assure Your Excellency that the interest of your Government in maintaining the position of the Republic of Cuba as a supplier of sugar for the United States market, at least in the same proportion as provided for in the Sugar Act of 1937, which is considered of vital importance to the maintenance of the existing economic relations between both countries, is fully appreciated, and

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<sup>6</sup> 50 Stat. 903.

that therefore my Government will make at all times every appropriate and possible effort to safeguard that position.

It is understood that this exchange of notes constitutes an integral part of the supplementary trade agreement signed this day.

Please accept, Excellency, the renewed assurances of my highest consideration.

GEORGE S. MESSERSMITH  
*Ambassador of the United States  
of America*

His Excellency  
Dr. JOSÉ M. CORTINA,  
*Minister of State,  
Habana.*